

**APPROVED MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, April 11, 2013 – 7:00 p.m.
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD**

1. Convene Meeting

Present: Chairman R. Blessey, Vice Chairman M. Grimes, Secretary F. Lollie, C. Lynch (arrived at 7:01 p.m.), L. Miller (arrived at 7:13 p.m.), Alternate and Voting Member where indicated, J. Varda

Absent: Alternates J. Cordisco and M. Frankel

- a. **Review Minutes of Previous Meetings: 3/28/13** – Vice Chairman Grimes moved to approve the Minutes of the March 28, 2013 regular meeting. Secretary Lollie seconded the motion, and it carried, 3-0-2, with Commissioners Lynch and Varda abstaining.

3/21/13 - Vice Chairman Grimes moved to approve the Minutes of the March 21, 2013 special meeting. Secretary Lollie seconded the motion, and it carried, 3-0-2, with Commissioners Lynch and Varda abstaining.

2. Land Use Enforcement

a. **Enforcement Officer's Report:**

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ZEO A. Dew reported on the following:

Requests for Voluntary Compliance (RVC)

12 Deer Run Rd., #201300078 - ZEO Dew advised that the Cease and Desist Order was sent. The property owner called and indicated that her husband would be completing the paperwork for a variance next week.

17 Old Middle Rd., #201300068 – ZEO Dew reported that one boat has been removed and the other is in a designated drive. There is no violation at this time.

44 Old Middle Rd., #201300069 – ZEO Dew has not heard from the property owner or his/her attorney. A Cease and Desist Order was sent today.

806 Federal Rd., #201300197 – The tenant has applied for a sign and the tenant fit up application is in progress.

1112 Federal Rd., #201300199 – The property owner was going to come to the meeting to modify the sign, but is not present. **Vice Chairman Grimes moved to issue a Cease and Desist Order to 1112 Federal Rd., #201300199. Commissioner Lynch seconded the motion. Vice Chairman Grimes withdrew his motion, and Commissioner Lynch withdrew his second. Vice Chairman Grimes moved to issue a Cease and Desist Order to 1112 Federal Road, #201300199, if not in compliance by April 30, 2013. Commissioner Lynch seconded the motion, and it carried unanimously.**

491 Federal Rd., #201300212 – ZEO Dew advised that the property owner has applied for the Certificate of Zoning Compliance and the sign.

Cease and Desist Orders

14 Valley View Rd., #201200777 – ZEO Dew inspected the site today and reported that the work to repair the damage to the house has been completed. She will send a letter to the property owner requesting completion of the paperwork related to the shed.

594 Federal Rd., #201200948 – ZEO Dew advised that there has been no responsive action. She will send a Cease and Desist Order.

Citation

12 Pocono Ridge Rd., #201200893 – The shed was approved at the April 1, 2013 Zoning Board of Appeals (ZBA) meeting. However, it was discovered that there is a deck that is not in compliance. The property owner will be returning to the ZBA to discuss this matter.

Town Counsel Action

533 Federal Rd., #2012000122 – More of the debris has been cleaned up. ZEO Dew reported that only pallets remain. There are also some potential wetlands issues at the site.

1 High Ridge Rd., #201000315 – No status change.

9 Stony Farm Ln., #201100095 – No status change.

54 Ironworks Rd., #201100755 – The new property manager for Bank of America is accepting bids for trash and wood removal.

34 Stony Hill Rd., #201200874 – The variance request heard at the April 1, 2013 ZBA meeting was denied. ZEO Dew advised that the property owner is attempting to buy property from his neighbor to put his property in compliance. The variance was denied on the basis of the size of the structure and a lack of hardship. Chairman Blessey requested that Town Counsel’s opinion on this matter be obtained.

Vice Chairman Grimes moved to go to Agenda Item 6.b. Commissioner Lollie seconded the motion, and it carried unanimously.

6. New Business

- b. 470 Federal Road #201300258: Site Plan Modification for an 18,550 sq. ft. Commercial Condominium building. Site improvements to include rear parking area, revised building door locations, drainage, utilities and landscaping. Bond Reduction (dec date 6/14/13)**

1. Map titled “Site Layout Plan, Proposed Industrial Building, Lot 1” prepared by CCA, LLC dated 7/14/10 revised thru 3/25/13 – sheet C1
 - “Grading & Utilities Plan” dated 7/14/10 revised thru 3/25/13 – sheet C2
 - “Landscape Plan” dated 7/14/10 revised thru 3/25/13 – sheet C3
 - “Erosion Control Plan” dated 7/14/10 revised thru 3/25/13 – sheet C4

M. Lillis, PE, CCA, 40 Old New Milford Rd., was present. The property is an industrial subdivision, with four lots. The modification is asking for 17 additional parking spaces. The variance granted by the ZBA is for parking in the residential buffer, and to split the building to accommodate more tenants. There are also minor changes to the curbing and the doorway on the north face of the building.

There was discussion regarding water requirements. Mr. Lillis indicated that the building would be sprinklered. The Commission requested that the matter be tabled to determine if a water tank was part of the original approval.

Commissioner Miller arrived at 7:13 p.m., at which time Commissioner Varda was no longer a Voting Member.

Vice Chairman Grimes moved to table 470 Federal Road, #201300258 until the April 25, 2013 meeting. Commissioner Lollie seconded the motion, and it carried unanimously.

- c. 227-235 Federal Road #201300259: Site Plan Modification for a 12,000 SF Furniture Showroom, 12,629 Misc. Retail: add water main extension to Sandy Lane Village, easement in favor of 227 & 235 Federal Rd, concrete sidewalk, add parking, reduce proposed landscaping (dec date 6/14/13)**

1. Map Cover Sheet titled “Proposed Site Plan for New Retail Building 227-235 Federal Rd” prepared by CCA, LLC dated January 19, 2012 revised thru 4/3/13
 - “Layout Plan” dated 11/2/11 revised thru 4/3/13 – sheet S1
 - “Grading Plan” dated 1/12/12 revised thru 4/2/13 – sheet S2
 - “Landscape Plan” dated 1/12/12 revised thru 4/3/13 – sheet S3
 - “Notes & Details” dated 1/18/12 – sheet D1
 - “Sanitary Sewer Details” dated 5/9/12 revised 7/20/12 – sheet D2
 - “Sedimentation And Erosion Control Plan” dated 12/7/05 – sheet E1

M. Lillis, PE, CCA, 40 Old New Milford Rd., and R. Blanchette, Borghesi Builders,, and N. Buzaid, Property Owner, were present. Mr. Lillis explained that the proposal is to add parking to the back of building by way of an easement via Sandy Lane Village, or a lease parcel. He advised that maps of a similar arrangement on another property in Town were sent to Town Counsel. ZEO Dew spoke with Attorney Marcus. It was noted that the current regulation language includes “lease” rather than easement.

There was discussion regarding reducing the landscaping. The plans were reviewed.

A revised bond estimated was submitted by M. Lillis and reviewed by Commissioners. The \$2,581 bond estimate is for erosion control at the site. Chairman Blessey expressed concern that the bond amount would not be sufficient to restore the site. After additional discussion including the cost of hydroseeding and fencing, Mr. Buzaid agreed that \$9,000 would be a reasonable amount.

Mr. Blanchette reviewed the minor changes to the building materials and colors. Samples were shown to the Commission.

ZEO Dew inquired how a partial bond release request would be handled and Chairman Blessey advised it would be dealt with at the time it occurs.

Chairman Blessey moved to approve the revised site plan for 227-235 Federal Road, #201300259, to allow the applicant to supplement lease space from the neighbor to get parking, to allow for new landscape proposal, to allow for the colors as presented by the builder on the site plan, and to set the bond at \$9,000 for stabilization and erosion and safety. Commissioner Lynch seconded the motion, and it carried unanimously.

4. Continued Public Hearing: 7:30 pm

a. Proposed Regulation Change #201201067: Section 242-505 B-H – Town Center District: (B) Plan of Conservation and Development (C) Common Areas, (D) Permitted Uses, (E) land Use Standards, (F) Design Review, (G) Parking and (H) Design Flexibility

Chairman Blessey reviewed the application and the discussion to date.

Secretary Lollie read a memo from N. Marcus to C. Lynch, dated April 4, 2013, related to language for Section 242-505H(7)Design Modification. Chairman Blessey summarized that the revised language allows for the flexibility of the Commission to increase square footage and height allowances if an applicant can set aside public plazas and/or open spaces on its site. He invited comments from the Commissioners. Commissioner Varda was in favor of the language, but felt that the 75% requirement should specify that it be for *five voting* members. Vice Chairman Grimes disagreed; he stated that it should be a *majority* vote, as it is with most matters. Chairman Blessey contended that allowing the discretion to increase the square footage and height warrants the requirement of a supermajority. He also noted that “public plaza” is not defined by percentage or square footage, which does not give developers direction. The Commissioners agreed that in the last sentence of the subsection, that the last “and” should be changed to “and/or”. Secretary Lollie and Commissioner Lynch agreed that “vote of 75%” should be changed to “majority vote”. Commissioner Miller was in favor of the flexibility the subsection allows, and the “majority vote” language. Chairman Blessey read the language with the aforementioned changes.

The Chairman welcomed questions of clarification.

H. Kurfels, 42 Obtuse Road North was present. He noted the need to weigh the amount of discretion allowed, but indicated he was “generally” in favor of the application.

Attorney K. Nielsen, was present on behalf of 777 Federal Road. He commended the Commission on its work with the regulation changes. He pointed out that the possibility of a 30,000 square foot grocery store was not addressed. Chairman Blessey noted this, and indicated it may be revisited.

No one was present to speak in opposition to the application.

Vice Chairman Grimes moved to close the Public Hearing for Proposed Regulation Change #201201067. Commissioner Miller seconded the motion. It was clarified that once the hearing is closed, the proposed regulation cannot be changed. Commissioner Lynch inquired if there was a final draft of the proposed regulation, and Chairman Blessey showed him the last revision, and offered to read it through. **Vice Chairman Grimes withdrew his motion, and Commissioner Miller withdrew his second on the motion.**

There was additional discussion and public comment.

H. Kurfehs indicated he disagreed with the entire proposal's emphasis on retail on the main level with residential above.

Vice Chairman Blessey read the most recent revised draft of the proposed regulation change for Section 242-505 B-H in its entirety, and addressed the re-lettering of the subsections.

H. Kurfehs inquired if there was a portion of the regulation that restricts residential development facing Station Road. Chairman Blessey advised that it is not part of this application, but is part of a recent regulation change that occurred approximately six weeks ago.

Commissioner Miller moved to close the Public Hearing for the Proposed Regulation Change #201201067. Vice Chairman Grimes seconded the motion, and it carried unanimously.

After careful consideration, Commissioner Lynch moved to approve #201201067, per the final revised draft as read by Chairman Blessey a moment ago. Commissioner Miller seconded the motion. Chairman Blessey pointed out that the specifics and restrictions of the regulation have defined the character of the District. Vice Chairman Grimes noted that the definition of the character may be modified in the future. Chairman Blessey stated that it will not regulate which development comes to the area, but allows "a wide variety of they type of character" for the District, but "is restrictive enough to disallow the character" the Commission does not want for the District. Secretary Lollie agreed that the regulation works for this time, and allows for modification in the future. Commissioner Miller indicated he feels the regulations are representative of the wishes of the citizens of Brookfield, and allow flexibility for future development. **Motion carried unanimously.**

Chairman Blessey moved to make the Regulation Change #201201067 effective one day after publication. Commissioner Miller seconded the motion, and it carried unanimously.

Vice Chairman Grimes moved to go to Agenda Item 6.a. Chairman Blessey seconded the motion, and it carried unanimously.

6. New Business:

a. 200 Federal Road (Costco) #201300116: Bond Release \$2,774,984.88

Vice Chairman Blessey recused himself from this matter and left the room at 8:18 p.m. At this time, Vice Chairman Grimes became Acting Chairman, and Alternate Varda became a Voting Member.

ZEO Dew advised that the applicant would like to have a partial release of the bond. She further noted that some erosion has occurred. The Town Engineer, R. Tedesco, has advised that correction of the erosion would require an engineer at an estimated cost of \$300,000. Secretary Lollie and Commissioner Lynch noted that the unit costs for the hydroseeding are markedly different for this application. Commissioner Varda noted the difference in pitch between the properties. Photographs of the erosion and sloughing were reviewed by the Commissioners.

Commissioner Lynch left the room at 8:23 p.m.

Secretary Lollie suggested that a third party geotechnical engineer be consulted regarding the cost of the corrective work. Commissioner Miller inquired regarding the direction of the erosion, and it was noted that it is starting from the top of the area.

Acting and Vice Chairman Grimes moved to table 200 Federal Road, #201300116, Bond Release, to the April 25, 2013 meeting, at which time the Commission would like Costco representatives and/or BL Engineering, and the Town Engineer, at the meeting, to present additional information. Commissioner Miller seconded the motion, and it carried, 4-0 (Commissioner Lynch was not present for the vote).

Chairman Blessey returned to the meeting at 8:27 p.m.

5. Old Business:

- a. 140 Federal Road #201300192: Design Review for a proposed 4,668 Square Foot Chic-fil-A restaurant with drive thru and associated site improvements (*ph scheduled for 4/25/13*) - No discussion/no motions.

- b. 800, 802, 806 Federal Road & 7 Station Road #201300224: Design Review for “Brookfield Village” to include mixed use retail (21,047 sq. ft.) and residential (79 Units) (*ph scheduled for 4/25/13*) – No discussion/no motions.

7. Tabled Items: None.

8. Informal Discussion:

- a. **46 Elbow Hill Road:** Discussion of Single Family Conversion with two (2) apartments in the dwelling. Requested by Joanne Bonenfant – This request for discussion was canceled by the property owner.

9. Comments of Commissioners:

Chairman Blessey discussed the continuation of Special Meetings to continue work with proposed regulation changes. He and Commissioner Miller are unable to attend any meeting on April 18, 2013.

Commissioner Lynch returned to the meeting at 8:28 p.m.

Chairman Blessey suggested that the comments of Carol Gould of Fitzgerald & Halliday be included, and that the Land Use Office Staff be consulted for writing a preamble to the changes.

A Special Meeting will be scheduled for May 2, 2013; and ZEO Dew will remind Chairman Blessey to discuss the proposed changes with Land Use Office Staff. After the Special Meetings conclude, it is hoped that an application will be completed and ready for the Agenda for the June 27, 2013 meeting. Commissioner Frankel has offered to draft sign regulation changes. There was discussion regarding using Land Use Office Staff to contribute to the draft.

10. Adjourn:

Commissioner Miller moved to adjourn the meeting at 8:36 p.m. Commissioner Lynch seconded the motion, and it carried unanimously.

****Next Regular Meeting Scheduled for April 25, 2013****